

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SANDRA ANYATA,

Plaintiff,

-against-

UNITED STATES OF AMERICA, et al.,

Defendants.

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22-CV-2405 (GHW) (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

By letter-motion dated October 1, 2024 (Dkts. 81, 82), plaintiff requests that the Court sanction the Montefiore Defendants for failure to timely disclose the long-demanded "lists of protocols from the Montefiore surgical and emergency departments" as they existed in October 2017 or, alternatively, for spoliation. The Montefiore Defendants filed an opposition letter-brief on October 7, 2024 (Dkt. 83), and plaintiff filed a reply letter on October 11, 2024. (Dkt. 84.)

The Montefiore Defendants rely in part on the affidavit of Mary Ellen Lindros (Lindros Aff.) (Dkt. 81-11), dated September 26, 2024, in which Ms. Lindros states that a list of policies maintained by the Emergency Department and the Department of Surgery "was available on Montefiore's Intranet system," but that it "was not and is not currently the practice of Montefiore to retain older versions of the list of policies from a specific month/year." Lindros Aff. ¶ 3. Lindros further advises that the list of policies was "updated many times between October 2017 and the present," such that "the list of policies for these departments from October 2017 is not available." *Id.* ¶ 4. However, Lindros attests, she was able to "compile[] the names of the policies that were in effect in the Department of Surgery and the Emergency Department in October 2017," *id.* ¶ 5, and has produced those lists as exhibits to her affidavit.

The Court will hold a discovery conference concerning plaintiff's letter-motion on **October 23, 2024, at 10:00 a.m.**, in Courtroom 20A, 500 Pearl Street, New York, New York. Prior to the conference, and no later than **October 21, 2024**, the Court requests clarification from Ms. Lindros, in the form of a supplemental affidavit, as to how (given the absence of records concerning the policies in effect in October 2017) she was able to "compile[] the names of the policies that were in effect in the Department of Surgery and the Emergency Department in October 2017," and how (if at all) she was able to assure herself of the accuracy of the exhibits to her September 26 affidavit.

Dated: New York, New York
October 11, 2024

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge